

NOT FOR PUBLICATION

IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX  
APPELLATE DIVISION

ALEJANDRO C. CEBEDO, M.D.,	)	
	)	D.C.CIV.APP.NO. 1999/115
Appellant,	)	
	)	
v.	)	Re: Sup.Ct.Civ. No. 374/1997
	)	
ROSALIND TOBAL, individually and as	)	
personal representative of the	)	
ESTATE OF CAROL SAMPSON, Deceased.	)	
	)	
Appellee.	)	
	)	

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Considered: August 19, 2005  
Filed: December 9, 2005

**BEFORE:**     **RAYMOND L. FINCH**, Chief Judge, District Court of the Virgin Islands; **CURTIS V. GOMEZ**, Judge of the District Court of the Virgin Islands; and **BRENDA J. HOLLAR**, Judge of the Superior Court, Sitting by Designation.

**APPEARANCES:**

**Henry Sampson**

St. Croix, U.S.V.I.

*Pro se.*

**John A. Sopuch III, Esq.**

**Diane Trace Warlick, Esq.**

**Wilredo Geigel, Esq.**

Attorneys in Underlying Action.

**JUDGMENT OF THE COURT**

**THIS MATTER** is before the Court on petition by Henry C.

Sampson ("Mr. Sampson") for writ of execution. Mr. Sampson asserts he is entitled to collect on the medical malpractice judgment in this case. Because we determine that no final judgment has been entered in this case, this Court has no jurisdiction to grant the requested relief. Given this, we will also decline to decide whether Mr. Sampson, as an unnamed party in the underlying action, is entitled to partake in any judgment that might result.

Carol Sampson ("Mrs. Sampson") was admitted to the Juan Luis Hospital after suffering stab wounds inflicted by the petitioner. Following Mrs. Sampson's death, Mr. Sampson was convicted of the first degree murder of his wife, and that conviction was affirmed on appeal to this Court. See *Government of V.I. v. Sampson*, 94 F.Supp.2d 639, 642 (D.V.I. App. Div. 2000). Mr. Sampson remains imprisoned on that conviction.

Mrs. Sampson's mother brought the instant medical malpractice claim against the treating physician and others, individually and on behalf of the decedent's four children and her estate. The defendants in that case unsuccessfully petitioned the court to strike any claims for non-economic damages over \$75,000. The defendants subsequently filed an interlocutory appeal in this Court, challenging the trial court's

determination that the statutory cap under the Wrongful Death Act is to be applied to each individual survivor, rather than in the aggregate. We granted permission for an interlocutory appeal and affirmed the trial court's determination permitting damage claims for the statutory amount for each individual survivor, based on our interpretation of the Medical Malpractice and Wrongful Death Acts. *See Cebedo v. Tobal*, 240 F.Supp.2d 373, 375-76 (D.V.I. App. Div. 2003).

Having now reviewed the trial record, it is apparent that since our determination in the interlocutory appeal, there have been no further proceedings in the case, nor has a trial occurred. Indeed, that case remains pending before the Superior Court. Therefore, appellant is seeking to execute on a judgment that has not yet materialized. We are without jurisdiction to grant such relief in the absence of a final judgment. *See The Omnibus Justice Act of 2005, Act No. 6730, § 54 (amending Act No. 6687 (2004) which repealed 4 V.I.C. §§ 33-40, and reinstating appellate jurisdiction in this Court); Revised Organic Act of 1954 § 23A; 48 U.S.C. § 1613a (jurisdiction to review final orders or judgments).*<sup>1</sup> Accordingly, the premises having been

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<sup>1</sup> The complete Revised Organic Act of 1954 is found at 48 U.S.C. §§ 1541-1645 (1995 & Supp.2000), *reprinted in* V.I. CODE ANN. 73-177, Historical Documents, Organic Acts, and U.S. Constitution (1995 & Supp.2003) (preceding V.I. Code Ann. tit. 1).

duly considered, it is hereby

**ORDERED** that the instant motion for writ of execution is  
**DISMISSED for lack of jurisdiction.**

**SO ORDERED** this 9th day of December, 2005.

**A T T E S T:**

**WILFREDO F. MORALES**  
Clerk of the Court

By: \_\_\_\_\_

Deputy Clerk

**Copies to:**

Judges of the Appellate Panel  
The Honorable Geoffrey W. Barnard  
The Honorable George W. Cannon, Jr.  
Judges of the Superior Court  
Henry Sampson, *pro se*  
Joel Feld, AAG  
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